

**ST. MARY’S COUNTY GOVERNMENT
POLICY FORM**

<p>SUBJECT:</p> <p style="text-align: center;">WATERWAY IMPROVEMENT DISTRICTS</p>	<p>POLICY NO.</p> <p style="text-align: center;">N/A</p>
<p>TITLE:</p> <p style="text-align: center;">STATEMENT OF POLICY</p>	<p>APPROVAL DATE:</p> <p style="text-align: center;">September 13, 2001</p>
	<p>REVISION DATE:</p>

SECTION 1: General Overview

The State of Maryland has established a Waterway Improvement Fund for the purpose of marking channels and harbors, clearing debris from waterways, dredging channels, constructing jetties and/or marine facilities beneficial to the boating public, and as further described in Natural Resources Article, Section 8-707 of the Annotated Code of Maryland. The Waterway Improvement Fund, (the “Fund”), may finance completely any qualifying marine construction project, which is beneficial to the boating public, as determined by the State Department of Natural Resources. Where the Maryland Department of Natural Resources determines that the Fund may not completely finance a project, the Fund may partially finance a project through one of two other mechanisms. In such cases the Department may provide Interest Free Long Term Loans or Matching Grants (50/50) to a governing body for any eligible marine construction project. At its sole discretion, a governing body, such as the County Commissioners for St. Mary’s County, may apply for such loans or grants from the Fund. The governing body must repay the Waterway Improvement Fund for an Interest Free Long Term Loan. State law permits St. Mary’s County to establish a Waterway Improvement District (the “District”) for the purpose of raising revenues to reimburse the County for the repayment of a Fund Loan by levying a special assessment against each property owner whose property lies in the district. If a Matching Grant is used, the State will reimburse the County for Fifty Percent (50%) of the project costs and the remaining amount will be repaid to the County by the District, through the levy of a special assessment against each property within the District.

The successful public financing of an eligible marine construction project is a cooperative effort among property owners, the Department of Natural Resources and County government. Initially, property owners must determine that they have problems or potential problems with their waterway. The process begins upon submission of a letter of interest identifying the problem by the public to the St. Mary’s County Department of Public Works and Transportation, (“DPW&T”). Upon receipt of the letter, DPW&T forms a request to the Department of Natural Resources to determine if complete funding is available. If complete funding is not available, DPW&T will assist the affected property owners as they begin an informal investigation regarding the voluntary participation in a special taxing district.

If property owners determine that they would like to take advantage of either the loan or a grant from the State, a District must be established. Once established, the County may obtain engineering services, construction bid documents and provide construction inspection services. For dredging projects, one of the principal responsibilities of the property owners is to identify and provide an adequate spoil site for the dredge materials. After the project is completed, the County and the Maryland Department of Natural Resources is not obligated or responsible for any future maintenance costs. At the request of the district, however, further assessments to provide for future maintenance and other improvements may be levied in the manner provided by law.

SECTION 2: General Provisions

- I. Real property abutting a natural or artificial body of water may be included in a District in accordance with Section 8-705 through 8-709 of the Natural Resources Article of the State Code, other applicable State and local laws, regulations and ordinances, and this policy.
- II. In this policy “Owners” means each person in whose name an account with respect to a parcel of real property stands in the records of the Supervisor of Assessments for St. Mary’s County when a petition is submitted under this policy. “Owner” includes each co-owner of a parcel of real property, whether the co-ownership is joint, in common, or by the entirety.
- III. The signatures of all co-owners are required to constitute the signature of the owner of the property. An authorized officer of a corporation may sign on behalf of a corporate owner.
- IV. A person who owns more than one lot or parcel of property in the proposed or existing district is entitled to one vote for or against for each parcel of property owned.
- V. The term of loan for re-payment of the benefit assessment to the County shall not exceed the lesser of twenty five (25) years or the estimated service life of the proposed improvement.
- VI. Costs of advertising to establish, amend, modify, or dissolve a District shall be borne by the then current owners of parcels or lots of real property in the District.

SECTION 3: Procedures for the Establishment of a District

The Board of County Commissioners of St. Mary’s County, under the authority contained in Natural Resources Article Section 8-705 of the Annotated Code of Maryland, may establish and designate areas of land or water within its jurisdiction as Waterway Improvement Districts. The following procedures are to be adhered to in the establishment of Waterway Improvement Districts in St. Mary’s County, Maryland:

- I. Beginning the Process of Forming a District
 - 1. The affected property owners must define the limits of a proposed Waterway Improvement District and prepare a Letter of Interest indicating the concurrence of at

least 75% of the properties within the proposed District boundary. The Letter of Interest shall be submitted to the County and must include a list and boundary map of the properties to be included within the District.

2. The County shall refer the Letter of Interest to the Department of Natural Resources for a Need and Feasibility Report, which includes the Department of Natural Resources' recommendation, description of work, and estimated costs of the project. If the Department of Natural Resources does not recommend the creation of the proposed district, the letter of interest requesting the creation of a district shall be forwarded to the Board of County Commissioners with a recommendation that the request be denied.
3. Following receipt of a Need and Feasibility Report supporting the project, the County shall hold a Public Informational Meeting to present the findings of the Need and Feasibility Report. Estimated costs of the project and funding options will be presented and discussed with the community in attendance. The notice of the meeting will be mailed to each property owner in the proposed District.
4. A petition must then be submitted to the County from the property owners in the proposed District.

II. Petitioning Process

1. The petition must set forth the purpose of the District and enumerate the properties to be included. It must identify properties (listing by tax map, parcel and lot and map exhibit) to be included in the District, the chosen method of assessment and an approximate cost to the property owners.
2. Methods of assessments that are acceptable to the County include:
 - a) An amount equal to the ratio of assessed valuation of the property (not including improvements) bears to the total assessed valuation of the properties within the District (Cumulative Assessment Ratio Method).
 - b) Per lot/parcel of record (Equal Assessment Method).
3. The petition must also include an affidavit concerning ownership of the property by signatures to the petition. All persons who sign the petition must own property within the District.
4. Counting Petition Signatures:
 - a) The vote of a parcel or lot for creation of the District will only be counted if all Owners have signed the petition form.
 - b) Each parcel or lot of record shall have one vote.
 - c) Criteria for Counting Petition Signatures:

The following criteria shall be used for counting signatures on petitions to determine the percentage of those in favor of the creation of the proposed District, hereinafter, "Affirmative Votes":

<u>Types of Ownership</u>	<u>Signatures Req.</u>	<u>Number of Votes (per parcel/lot)</u>
Tenants by the Entireties	2	1
Tenants in Common	All	1
Joint Tenants	All	1
Individual Owner	1 (authorized)	1

5. A petition must be signed and submitted to the County by 75% of the properties which would receive benefit from the project. The petition must be approved by County staff, prior to the scheduling of a Public Hearing with the Board of County Commissioners.

III. Establishment of the District

1. Upon receipt of a Need and Feasibility Report from the State and an approved Petition from the Owners, the Board of County Commissioners may hold a Public Hearing regarding the creation of the District. If a Public Hearing is authorized by the County Commissioners the Board of County Commissioners may use discretionary authority to change the scope of work during the Public Hearing.
2. The notice of the Public Hearing will be mailed to each property owner in the District, and will be published in a local newspaper at least once a week for two (2) successive weeks prior to the Public Hearing.
3. The value of the benefit derived from a project should be shown to meet or exceed the costs of the project to demonstrate that there will be no substantial, unreasonable or unpalpable disproportionality between the amount assessed and the value that accrues to the land as a result of the improvements. The Commissioners will determine whether general fund monies are required to supplement the proposed project, or, in the alternative if each property in the district will be benefited sufficiently (i.e. value, potential use, salability, etc.) for the District to bear all costs of the proposed project.
4. An Ordinance establishing a District may be adopted by the County Commissioners after ten (10) days following the Public Hearing.
5. Following the execution of an Ordinance to establish the District, plans and specifications shall be prepared, either by in-house staff or by consultant, to obtain any necessary Local, State and Federal permits. If the scope of the project would warrant consulting engineers, the costs associated for engineering and design services will be the responsibility of the Owners within the District.

IV. Preparation of Plans: Letting Contracts

1. After the completion of plans and specifications, the County shall advertise for bids for construction, once a week for two (2) consecutive weeks. Following the submittal of bids to the County, but prior to letting of the contract, the County shall notify the property owners that the plans, specifications and cost estimates have been completed.
2. A Public Informational Meeting will be held to discuss the design and construction costs associated with the project.
3. If bid proposals for construction and design costs exceed the amount as identified in the Ordinance that established the District, then a Public Hearing must be held to amend the budget of the District.
4. Following the above procedures, the contract for construction may then be executed.

V. Levy of Benefit Charges

1. After construction is complete, the Board of County Commissioners will hold a Public Hearing to review and execute a Levy Ordinance.
2. The notice of the Public Hearing will be mailed to each property owner in the District, and will be published in a local newspaper at least once a week for two (2) successive weeks.
3. The Commissioners are empowered and directed to fix and levy a benefit charge against all benefited properties with the execution of a Levy Ordinance. In accordance with applicable laws, the benefit charge shall constitute a lien upon the property and shall be paid annually with County taxes.

SECTION 4: Process for Filing an Appeal

A person adversely affected by the establishment of a District by Ordinance may appeal the action of the County Commissioners to the Circuit Court of Maryland for St. Mary's County. An appeal must be filed within thirty (30) days of the effective date of an Ordinance. Any such appeal will be conducted in accordance with the provisions of the Maryland Rules and Procedures governing appeals from administrative agencies. In an appeal of the establishment of a District, the sole issues shall be whether the County Commissioners acted in accordance with:

1. Procedures concerning county ordinances in Article 25, §3(r), of the Annotated Code of Maryland;
2. Other procedures required by law.

An appeal of the establishment of a District is decided by the court without a jury. The County or the petitioner may appeal a decision of the Circuit Court to the Court of Special Appeals.

SECTION 5: District Council

The Board of County Commissioners will act as the District Council for the waterway improvement districts and shall carry out the duties imposed by law, or which are reasonably necessary to implement the provisions in Section 8-705 through 8-709 of the Natural Resources Article of the State Code and this policy.

SECTION 6: Abolition of District

The District Council may abolish a waterway improvement district at any time.

SECTION 7: Expansion, Maintenance and Repair of a Project

Instead of abolishing a waterway improvement district upon completion of the project then approved, the District Council may continue the existence of the district for the purposes of expanding, maintaining or repairing the project. A Levy Ordinance must be executed for the expansion, maintenance or repair of a project prior to the assessment of properties, following a Public Hearing with the Board of County Commissioners.

SECTION 8: Approval by the Board of County Commissioners

We, the Board of County Commissioners of St. Mary's County, Maryland, do hereby approve and adopt this Statement of Policy. This policy is accepted by Julie B. Randall, President of the Board of County Commissioners of St. Mary's County, Maryland on behalf of the said County, having been authorized to so act on behalf of St. Mary's County at a meeting of the Board of County Commissioners on 9-13-01, which approval and acceptance is evidenced by the execution of this Statement of Policy – Waterway Improvement Districts by Julie B. Randall, President, Board of County Commissioners for St. Mary's County, Maryland.

NOTE: Signatures are shown on the original document. This document is for County website use only.